

**A
BICENTENNIAL HISTORY
OF
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
1790 - 1990**

By

**H. H. WALKER LEWIS, ESQ.
of the Baltimore Bar**

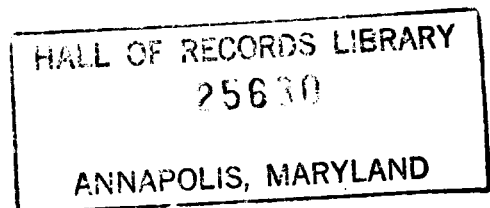
and

**THE HON. JAMES F. SCHNEIDER
U.S. Bankruptcy Judge for the
District of Maryland**

Published By

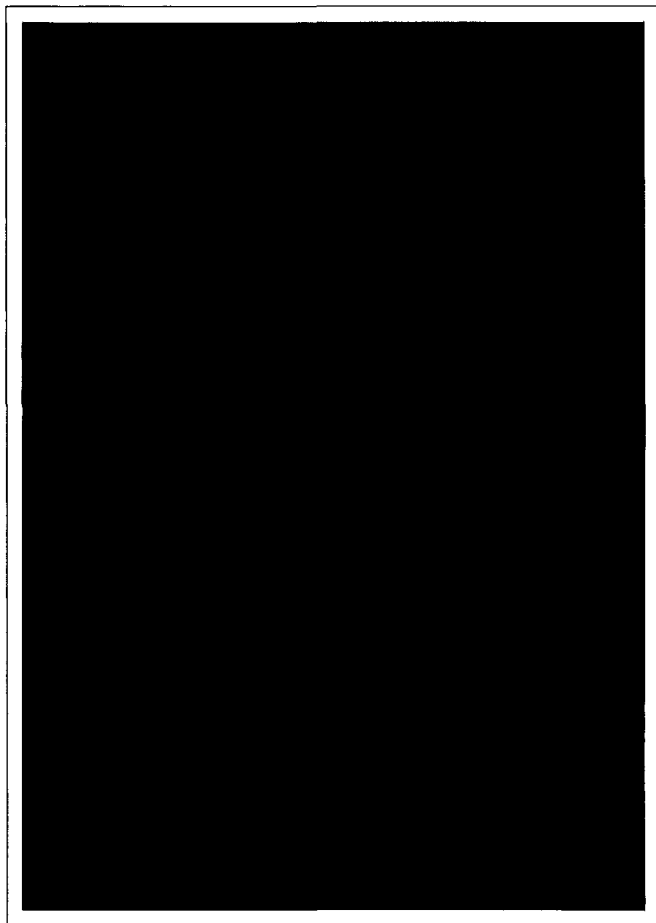
**THE MARYLAND CHAPTER OF
THE FEDERAL BAR ASSOCIATION**

1990



2. JAMES WINCHESTER

(1772-1806)



No known likeness

Born: *September 13, 1772*
Birthplace: *Baltimore, Maryland*
Father: *William Winchester*
Father's Occupation: *Banker*
Mother: *Mary Parkes*
Wife: *Sarah Owings (Dec. 25, 1773-Sept. 17, 1815)*
Married: *March 21, 1793*
Children: *Samuel Winchester, Anne Winchester*

Religion: *Episcopalian*
Political Party: *Federalist*
Term on U.S. District Court: *Nov. 15, 1799-Apr. 5, 1806*
Length of Term: *6 years, 141 days*
Age at Accession to the Bench: *27 years, 63 days*
Died in Office: *April 5, 1806*
Age at Death: *33 years, 204 days*
Place of Death: *Shawan, Baltimore County*
Burial Place: *?*

JAMES WINCHESTER (1772 - 1806)

Winchester's successor, James Winchester of Baltimore, was appointed by President John Adams in 1799 and presumably was a Federalist. Born September 13, 1772, he was a son of William Winchester, first president of the Union Bank of Maryland (ancestor of the Maryland National Bank), and the older brother of George Winchester, first president of the Baltimore & Susquehanna Railroad (later the Northern Central) and the owner of "Bolton", the estate from which Bolton Hill takes its name. As befitting one thus endowed, the Judge was baptized as an Episcopalian, in St. Paul's Church.

Aside from these sparse facts, he might as well have leapt full-grown into life, like Athena from the head of Jove. He must have been both well-educated and precocious. Chief Justice Roger Brooke Taney listed him as one of the leading lawyers practicing in Annapolis, among other places, shortly before the turn of the century.¹² We also know that Winchester was elected to the General Assembly at 22 and two years later took a leading part in the incorporation of Baltimore City. He was only 27 when appointed District Judge.

Accounts of the Judge sometimes confuse him with an uncle of the same name who served in the Maryland Line during the Revolution, emigrated to Kentucky, and became a general in the War of 1812. But he lacked the flamboyance of his uncle and lived a life so circumspect as almost to escape headlines. One of the few press notices about him, in addition to those already mentioned, was to note his attendance as a Maryland delegate at the first convention of abolition societies in America, held at Philadelphia in 1794.

The Philadelphia *Port Folio* of May 3, 1806, a month after his death, includes an unsigned article on the "Character of the late Judge Winchester of Maryland." This gives him an exceptionally lavish buttering-up, but it consists almost exclusively of eulogistic adjectives. The closest thing to factual information is the statement that he was "quickly successful at the bar and before the age of twenty-five advanced to wealth and reputation."

He died April 5, 1806 at his home, "Shawan," in Baltimore County, and we know from the Court minutes that on at least one occasion he held court there. In addition, the Maryland Historical Society manuscript collection contains an especially interesting letter that he wrote to Justice Samuel Chase on January 26, 1804, relative to the latter's impeachment by the House of Representatives. The following are excerpts:

You may think it strange that I am more alarmed at the trifling than the serious charges — because I am sure that the latter will never be supported by truth — and a resort to the former looks like a mischievous determination had preceded inquiry. I had always been under the impression that our Constitution had limited impeachments to "bribery and other *high* crimes or misdemeanors." . . . The latitude is as great as in England, but the security in the court that judges [the Senate] is *less*, inasmuch as it partakes of the popular prejudice of the impeaching branch. The power of impeachment in this view is the most terrible engine which faction can employ. When a man is obnoxious, anything will suffice to color his destruction . . .

I should not, however, be willing to abandon the principle that impeachment will lie only for some *high* crime or misdemeanor. This seems to be countenanced

by the restriction on the power of the Senate to pass judgment by leaving the party liable to indictment, trial and punishment at law, and the inference is fair that unless the *act* is punishable at law without impeachment, acts highly criminal may not be triable. If some such restriction is not allowed, what are the boundaries of this power, or what its rules of trial or evidence? Are they not completely arbitrary?¹³

This letter could have been written only by a lawyer of thorough legal training and experience, plus a high degree of intellectual competence. Reading it, one gives greater credence to the flowery encomiums in the *Port Folio* article, even while deploring the practice of confining obituaries to adjectives.

Phillip Moore, who succeeded Barney as Clerk in 1793 and who served through Winchester's entire term, was moved to write the following minute:

Honorable James Winchester, Judge of the District Court, departed this transitory life some time in the month of March,¹⁴ Anno Domini, 1806, after a long and painful illness occasioned by the bursting of a blood vessel. Of this distinguished man it may be truly said that to the politer accomplishments of a Chesterfield he added, to a variety of other perspicuous qualifications, the most unbounded liberality and benevolence of soul.

Judge Chesnut has commented: "This is certainly a warm tribute from a Clerk whose official position gives him many opportunities to realize the limitations and imperfections of the Judges of the Court."¹⁵

Among the District Court's conspicuous blessings has been a singular rapport between the Judges and the Clerks. The tenure of the latter has always been at the pleasure of the District Judge (the senior where more than one). Nevertheless, it has been the practice to continue Clerks in office until death or retirement, and then to give preference to their deputies. The turnover among them has been far less than among the Judges, and all who have dealt with the Court have had occasion to recognize their outstanding efficiency and dedication. This is eminently true of Paul R. Schlitz, to whom I am indebted for cheerful and efficient assistance beyond the call of duty.

¹² Samuel Tyler, *Memoir of Roger Brooke Taney*, (Baltimore, 1872), 64.

¹³ Md Hist Soc, Samuel Chase Papers No. 1235.

¹⁴ Judge Winchester died April 5, 1806, not in March as stated by Mr. Moore.

¹⁵ 41 *Md State Bar Procs.* (1936), 79.